
Appendix H

**Access to Justice Hearing
October 10, 2007
Durango, Colorado**

**Co-Sponsored by
The Colorado Access to Justice Commission and
The Sixth Judicial District Access to Justice Committee**

Appendix H
Table of Contents

<u>Contents</u>	<u>Page</u>
Summary of Durango Hearing	H-3
Panelists	H-4
Witnesses	H-4
Summary of Witness Statements	H-5
David Butler	H-5
Manuel Ramos	H-5
Kim Shropshire	H-5
Martha Minot	H-6
Lynne Sholler	H-7
Kim Jones	H-8
Eve Presler	H-9
Arthur Jacobs	H-9
Durango Hearing Press Release	H-11
Durango Hearing Invitation	H-12
Sixth Judicial District Access to Justice Committee Members	H-13
Sixth Judicial District Access to Justice Committee Recent Accomplishments	H-13

Summary of Durango Access to Justice Hearing

Before a panel including David Liberman, President of the Southwest Colorado Bar Association; Judge Dan Taubman of the Colorado Court of Appeals; John Whitney, Regional Director of the Office of Representative John Salazar; and Ann Brown, Regional Director of the Office of Senator Ken Salazar, seven witnesses detailed the tremendous unmet need for civil legal assistance for poor people in the Sixth Judicial District. Arthur Jacobs, the Colorado Legal Services managing attorney in Durango, testified that his office now has two attorneys, but would need a total of ten to meet the civil legal needs of low income people in the district. Kim Jones, with Alternative Horizons, an organization which assists victims of domestic violence, testified that fear and intimidation discourage many women who are victims of domestic violence from obtaining legal representation, and that her organization now represents fewer battered women because a federal grant to provide legal representation was not renewed.

Lynne Sholler, chair of the local ATJ committee, testified about the committee's accomplishments, including preparation of the DVD entitled, "Know Your Rights," to assist defendants in criminal cases. The DVD was produced in both English and Spanish, and has been widely circulated to defendants in criminal cases, the public defender's office, and elsewhere.

Durango Access to Justice Hearing Panelists

<u>Name</u>	<u>Affiliation</u>
Dan Taubman	Panel Chair; Member, Colorado Access to Justice Commission, Judge, Colorado Court of Appeals
Susie Bonds	Member, 6th Judicial District Access to Justice Committee
Ann Brown	Regional Director, Office of U.S. Sen. Ken Salazar
David Butler	Secretary, Colorado Access to Justice Commission
David Liberman	President, Southwest Colorado Bar Association
Martha Minot	Judge, La Plata County Court
John Whitney	Regional Director, Office of Rep. John Salazar
Jeff Wilson	Judge, La Plata District Court

Durango Access to Justice Hearing Witnesses

<u>Name</u>	<u>Affiliation</u>
Manuel Ramos	Director of Advocacy, Colorado Legal Services
Kim Shropshire	Attorney, Durango Colorado Legal Services
Martha Minot	Judge, La Plata County Court
Lynne Sholler	Chair, Sixth Judicial District Access to Justice Committee
Kim Jones	Alternative Horizons (Domestic Violence)
Eve Presler	Advocacy for La Plata (At-risk Families)
Arthur Jacobs	Managing Attorney, Durango Colorado Legal Services
David Butler	Secretary, Colorado Access to Justice Commission

Summary of Witness Statements

Attendance - 32

David Butler

Mr. Butler is the Secretary (and former Chair) of the Colorado Access to Justice Commission and serves on the commission's Resource Committee. He described the sources of funding for Colorado Legal Services, including the federal Legal Services Corporation, the Colorado Lawyers Trust Account Foundation, the legal community, and state funding. Mr. Butler explained that Colorado's state funding now ranks fortieth nationally and would need to increase an additional \$1.82 million to become average. Additional details are included in Appendix A.

Manuel Ramos

Mr. Ramos is an attorney with Colorado Legal Services (CLS). He provided an overview of CLS, which provides assistance in civil cases to individuals and families throughout the state whose incomes are within 125% of federal poverty guidelines. CLS currently has forty attorneys serving in fifteen offices. In 2006, it served 6,632 eligible clients, primarily in the areas of family law, income maintenance, and consumer law. Additional details are included in Appendix B.

Question from Judge Dan Taubman: What percentage of foreclosures involves people who are considered low-income?

Response: I do not have the exact numbers, but it occurs often.

Question from Judge Dan Taubman: When you represent people with mortgage problems, are you ever able to assist them in avoiding foreclosure?

Response: Yes, we have often helped people postpone or avoid foreclosure. CLS attorneys are well-versed in foreclosure proceedings, and are adept at challenging overreaching contracts and unconscionable deals.

Question from John Whitney: Has the qualifying poverty rate of 125% always been the threshold?

Response: Yes, as long as I can remember it has been at this level. Other states have experimented with variations of this percentage, but Colorado has used 125% for as long I can remember.

Question from John Whitney: Would it be beneficial to raise this percentage level?

Response: To answer that question, our organization needs more resources to fully understand the possibilities.

Kim Shropshire

Ms. Shropshire is a staff attorney with CLS in Durango. The persons served by CLS are disadvantaged not only financially but in terms of power in negotiating the legal system. Many of the clients suffer from mental illness, substance abuse issues, and social dysfunctions due to years of abuse, or chronic medical conditions which contribute to their poverty. These persons are the ones most at risk of losing basic needs, such as housing, food, basic medical care, and their rights relating to public assistance and custody issues. The Durango office serves eight counties and two Native American reservations in the area. There are only 1.75 lawyers to serve such a large area. Without more attorneys, a large percentage of the poor population will continue to be underserved.

The first successful client story is of a young man who was diagnosed with autism at the age of six. Despite his supplemental government income, he was deep into credit card debt. Apparently, his abusive step-father was using his personal information to fraudulently spend based on this autistic man's credit. He was forced by his father to sign credit cards under duress. The credit card companies sued and pursued a settlement even after being informed of the fraud and duress and that the young man was judgment-proof. After the man contacted CLS in Durango, CLS was able to get the lawsuits dismissed, thus relieving this disabled man from a debt he could not repay, and permitting him to continue his pursuit of independent living skills.

Another successful case regarded a forty-five year old man who suffered from severe schizophrenia. This man was a high school teacher, but as a result of his condition, lost his job. He had a severe episode of decompensation which resulted in him being arrested for indecent exposure. He was declared incompetent to stand trial, and was admitted for inpatient care to treat his mental illness for a period of six months. As a result of his entry into the criminal justice system, he accessed mental health services for the first time. He applied for, and was denied, Supplemental Security Income (SSI). CLS assisted him in appealing the denial. He won his appeal and received SSI, and subsequently, Medicaid. Because he is on Medicaid, he has access to regular treatment and care for his mental illness. Because he receives a monthly income, he can provide for basic needs such as housing and food.

Martha Minot

Judge Minot is the La Plata County Court Judge who manages both a magistrate and county court docket. The county court alone handles over 7,100 cases, 40% of which are civil cases. The courts have encountered many pro se clients who are faced with evictions because they lack the ability to pay rent. These clients also cannot afford to pay a lawyer to represent their interests and inform them of their rights under the law. Landlords also are often ignorant of their legal duties. As a judge, she is unable to choose sides, and often feels uncomfortable telling either the landlord or the tenant that he or she is wrong. Lack of information, which an attorney could easily remedy, is a big problem.

For pro se litigants, court can be overwhelming and intimidating, and they are often too scared to ask any questions. Because of the fast pace of the county court, pro se litigants often lose there. The La Plata County Bar Association provides fifteen pro bono attorneys who serve as small claims court mediators and provide low income litigants insight on possible legal claims they may have. Without this help, most pro se litigants would come to court with invalid claims or claims "of the heart" that have little merit. In criminal cases, legal services provided to indigent people in Durango and the surrounding area is fairly good, but the civil legal services are in dire need of improvement.

In addition, county court cases often deal with debt collection issues. Debt is turned over to a debt collection company, and without the assistance of an attorney, people generally do not know or understand their rights under debt collection law. It is vital that people know their options before they come to court, because once they are in the courtroom, it is too late to exercise these options. Garnishment and other payment plans are very difficult concepts for poor or mentally challenged people to understand, and attorneys could solve many of these problems judges see in court every day.

Question from Ann Brown: For people, who are evicted, is there any information on how to proceed in court?

For example, is there some sort of checklist?

Lynne Sholler responding: There is no formal checklist, but we do have landlord-tenant clinics to help them.

Manuel Ramos responding: CLS has information available on its website to help with landlord-tenant issues.

Comment from Ann Brown: Our office has received questions about landlord-tenant issues and we did not know what to give them or where to send them. From now on we will send them to CLS.

Question from Judge Dan Taubman: Would having lawyers available to the indigent in collection issues help?

Response: Certainly, attorneys could provide an explanation of how they can best deal with those issues.

Lynne Sholler

Ms. Sholler is a local attorney and Chair of the 6th Judicial District Access to Justice Committee. The local ATJ committee has accomplished much with its limited budget. Among the many notable accomplishments of the committee is production of a film entitled, “Know Your Rights,” which explains the rights of defendants in criminal cases and explains proper court demeanor. The film is available on a DVD, which is available at the jail, the public defender’s office, CLS, the public library, and the public access television station. In addition, local committee member Tracy Bedard produced an accompanying brochure called “Know Your Rights,” which is available only in English at this point, and which emphasizes the main points of the film. The brochure will be available in Spanish soon.

The committee has also produced standard form contracts in Spanish and English for construction workers to have their employers sign when they fear they may not get paid for their labor. Judge Minot commented that she has not seen these contracts in court yet, so perhaps the contracts are serving their intended purpose. The local ATJ committee also puts on landlord-tenant clinics; the most recent clinic was attended by about 50 landlords and tenants. As a result of attending the clinic, some landlords realized that they were not properly applying Colorado landlord-tenant law.

These are a few of the significant projects that the local ATJ committee has undertaken to bridge the access to justice gap.

There are many issues which CLS faces in the Durango area. The area served by CLS is very large, and disadvantaged persons often do not have the means to travel to Durango to attend clinics. The local ATJ committee hopes to conduct clinics in other towns within the district in the near future. Moreover, there are many more clients that need legal help than attorneys available who are able to provide those services.

Based on her practice, Ms. Sholler understands that many people whose income exceeds the CLS financial eligibility standards still cannot afford to hire an attorney. This shows the continuing justice gap which exists in the area. In addition to CLS, current available resources include the volunteer attorney mediator program for small claims court cases and organizations such as Alternative Horizons, Advocacy for La Plata, and the Minority Over Representation Project, which have advocates who can help people with legal tasks that do not require the assistance of an attorney.

Although these programs do all they can with the limited resources they have, additional services are needed in the community. Low-income people need more people to explain the self-help forms available on the Colorado Judicial Branch website. Many of these forms, such as adoption forms, are very complicated, even for an attorney. Thus, pro se litigants are unlikely to complete these forms correctly on their own. More clinics are needed to teach people how to fill out forms. Resources are also needed to serve rural clients outside of Durango — for example, a bus with attorneys who could travel to rural areas to serve clients. The community also needs additional mediation services for low-income individuals. In the past, Braided River Mediation fulfilled many of these needs, but recently its sources of funding have dried up, and help is needed in this area. Finally, regarding additional gaps, the community needs additional people who can communicate with Native Americans who speak tribal languages, and who can translate self-help forms. Assistance is also needed to provide safe exchanges of children for parenting time and to provide additional Child and Family Investigators.

Question from David Butler: How can people obtain the “Know Your Rights” video, and how do people in jail know that it is available to them?

Response: The video is available at the local courthouse, jail, public defender’s office, public library, CLS office, and several private attorneys’ offices. Inmates know about the film because one of the main administrators at the jail helped to produce the film and is an advocate of legal aid.

Question from Susie Bonds: In the past, legal aid had to “beat the streets” to obtain donations from private attorneys. Are there funds available for self-help kiosks?

Response from David Butler: There are no funds available for this and that is one of their main reasons for advocating for additional funds.

Response from Lynne Sholler: The local ATJ committee seeks funds and “beats the streets,” and that is how the local ATJ committee was able to fund the “Know Your Rights” video. However, there are only so many times the same business can be asked for funds.

Kim Jones

Ms. Jones is with Alternative Horizons. She believes local judges do an amazing job working with domestic violence victims, even if they are unable to get an attorney to represent them. However, the main problem lies with convincing pro se domestic violence survivors to appear in court in the first place. Most pro se survivors find it extremely difficult to sit in the same room with their abusers, waiting their turn in front of the judge, particularly when their abuser has hired an attorney. In addition, there is no current funding for civil matters such as landlord-tenant issues. While various organizations, such as CLS and Alternative Horizons, collaborate extremely well in providing a broad array of legal services, available resources only permit them to help a small segment of those needing services.

Alternative Horizons began in 1978 and is totally free to clients. It provides a 24-hour crisis hotline, physical and emotional support during court proceedings, support groups for domestic violence victims, community outreach for teens, and a legal project that helps with divorce and custody issues, as well as other important services. In 2006, Alternative Horizons received more than 2,000 requests for services from 969 people. People are never turned away, and in the past Alternative Horizons received a federal grant to help provide legal representation in 25-35 domestic relations cases annually. In 2007, however, the grant was not renewed, and the funds it received for legal projects were only sufficient to provide representation in four or five cases. The organization is only able to pay attorneys \$35 to \$45 per hour, which makes it difficult to find attorneys willing to take cases, especially since many of the cases require extended representation.

Overall, fear and intimidation discourage many women who are victims of domestic violence from obtaining legal representation. Without an attorney to stand by their side and guide them through the process, many victims are afraid to plead their case before their abuser in court. Alternative Horizons generally assists clients with non-legal help such as filling out forms for civil protection orders, because it does not have funding to provide actual legal representation. The funding it has had in the past for legal representation has helped many victims in terrible situations. For example, one client was almost killed twice by her abuser. With the legal assistance she received from an attorney who took the case through Alternative Horizons, she was able to get a protective order and obtain custody of her child, and she now leads a productive life.

Question from Judge Dan Taubman: If there were more lawyers available to help with protection orders, would it help?

Response: Most victims are too scared to go to court without an attorney, especially if the abuser has an attorney. Lawyers are vital to the legal success of domestic violence victims.

Question from Judge Jeff Wilson: Is there anything the court can help with on temporary orders for these victims?

Response: Courts themselves cannot provide sufficient help because, without an attorney, it is unlikely that many victims will even make it to court as pro se litigants due to intimidation and fear.

Comment by Kim Shropshire: CLS lawyers deal with such a broad scope of legal cases, and some domestic violence cases last so long, CLS would need more full-time attorneys to deal just with these cases. Thus, when Alternative Horizons loses its funding, it is devastating to these victims.

Comment by John Whitney: Rep. Salazar is dedicated to increasing the funding for legal aid and supports the efforts of those dedicated to providing legal services to low-income people.

Eve Presler

Ms. Presler works for Advocacy for La Plata (La Plata). La Plata helps high-risk families who are receiving assistance from the department of social services. These families may consist of single parents, grandparents taking care of grandkids, or foster families. Some of the high-risk situations include substance abuse and physical or mental abuse. Most of the families she deals with have more than one of these problems. La Plata always collaborates with other organizations in town, because it finds this to be the most effective way to assist clients. It always escorts its clients to the courtroom, but it has no real authority there, and its employees are not lawyers.

The landlord-tenant clinics conducted by the local ATJ committee are very helpful for low income people in the area. Tenants will often sign a lease and have enough money for the first month's rent, but are unable to pay thereafter, and legal problems arise. Low-income people are often so desperate for housing that they fail to read the fine print in the rental contract. Clinics are a good resource for assisting large numbers of clients, given the inadequate resources of CLS.

La Plata sees many barriers which perpetuate lack of access to justice for indigent people in the area. Child care and transportation are huge barriers for many families to attend the clinics, as well as limited access to telephones and language barriers. However, CLS has been an amazing resource for La Plata, and she solicits its help on a regular basis. CLS has provided advice and direction whenever its own resources do not allow it to take a case. Finally, a clinic dealing with criminal issues would be a good idea for the future.

Arthur Jacobs

Mr. Jacobs is the managing attorney for CLS in the Durango area. The office serves eight counties and two Native American tribes, but only has 1.75 attorneys. It receives over \$130,000 annually to represent members of the Native American tribes because they are historically vulnerable, but overall, it has limited resources to provide adequate representation. The Bureau of Indian Affairs used to draft Native American wills for free. However, a 2006 law disallowed this practice. CLS does not have the resources to understand or implement this new legislation; the addition of attorneys or staff with a specialization in this area is greatly needed. Currently, CLS provides some criminal defense representation on the two reservations. In addition, it provides some representation in dependency and neglect cases. Overall, the broad scope of services desperately needed on the Native American reservations serves as evidence that additional funding and resources are needed.

Regarding domestic violence cases, CLS will accept a case if there is documented violence in the last 12 months or if the opposing side has an attorney. Unfortunately, because of inadequate funding, the vast majority of potential clients are turned away and are referred to a pro se clinic. The pro se clinic has great volunteer attorneys, but the clinic is not a substitute for legal representation of these individuals.

CLS's Durango office would like to provide a wider array of legal assistance for the indigent. First, with additional resources it could provide tenants representation in public and private housing eviction cases, as well as advice in other housing cases. In addition, CLS aspires to provide representation in housing cases involving issues of substandard conditions, needed repairs, and security deposits. Second, CLS would like to provide clients with general debt collection advice and counsel, as well as advice involving unfair sales, warranties and garnishment. Furthermore, with additional funding, representation could be provided to indigent clients in chapters 7 and 13 bankruptcies and unfair sales claims. Finally, CLS would like to provide more representation in unemployment compensation cases and employment discrimination cases and provide some representation in Veterans Administration and uranium exposure cases.

Overall, CLS would have the capacity to serve many more qualified clients on a broader spectrum of cases with additional funding and resources. For the size of the area it serves, the local CLS office has a massive shortage of funding and attorneys, which hinders its ability to reach a large segment of the indigent population.

Question from Judge Dan Taubman: How many attorneys could you use in the eight counties you serve to address all of your needs?

Response: 29.9% of La Plata County qualifies under the poverty standard for CLS, which is a very large number. CLS could use at least ten attorneys compared to the two it now has. Moreover, enhanced collaboration between agencies could solve multiple problems simultaneously. For example, if an individual receives Supplemental Security Income benefits of \$630 a month, collaboration with the appropriate agency would permit the client to receive Medicaid benefits as well.

Durango Access to Justice Hearing Press Release

September 21, 2007
For immediate release

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Lynne Sholler, 6th Judicial District Access to Justice Committee (970) 375-7756

Legal Services Solutions for the Vulnerable

Access to Justice Commission coming to Durango

COLORADO — Statewide hearings will be held to determine the civil legal needs of low-income people in Colorado. The meetings will help identify the gaps of legal services and evaluate the specific needs of individual communities. The Colorado Access to Justice Commission and local Access to Justice Committees will be conducting the hearings September through November, and will include legal services clients and service providers, as well as members of the legal community. The hearing in Durango will be held on October 10, 2006.

“Colorado is substantially below the national average in funding for legal services for poor people,” said Fred Baumann, Access to Justice Resource Committee chair. “We would need another \$2.5 million just to bring our state up to average. That’s a serious problem.”

The legal issues confronting Colorado’s poor most often include the basic human needs of shelter, sustenance, safety, health care and child custody. Their cases deal with protection orders, domestic violence, medical benefits, social security, SSI, food stamps and more.

“Although we help a large number of low-income individuals and families facing legal problems, there are many more whom we cannot help despite their critical legal needs,” said Jon Asher, Colorado Legal Services director. “From women and children who have been abused, to homeless individuals, to families facing eviction or foreclosure, those needing medical care for themselves or their families, veterans and other disabled citizens — we must do more to help meet the legal challenges facing those who can’t help themselves.”

Nationally, less than 20 percent of the poor’s legal needs are addressed with a private attorney (pro bono or paid) or a legal-aid lawyer, according to a Legal Services Corporation report. There are 6,861 eligible low-income people for every legal-aid lawyer in the nation. In the general population, there is one attorney for every 525 people — more than 10 times the ratio of legal-aid attorneys to the population they serve.

Access to Justice Commission members include appointees by the governor, the Colorado Supreme Court, the president of the Senate, the speaker of the House and the Colorado Bar Association. Local Access to Justice Committee members are judges, lawyers, service providers and others interested in eliminating the barriers in the legal system for low-income individuals.

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The mission of the Access to Justice Commission is to develop, coordinate and implement policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to Colorado’s civil justice system. Additional information about the Commission is available at www.ColoradoJustice.org.

Durango Access to Justice Hearing Invitation



You are cordially invited to attend:

Access to Justice Hearing

OCTOBER 10, 2007

**4:00-6:00 P.M. (FOLLOWED BY 1 HOUR RECEPTION)
ANASAZI ROOM - LA PLATA COUNTY COURTHOUSE**

The purpose of the hearing is to gather information regarding the extent to which legal needs of disadvantaged persons in La Plata County are being met, and to identify additional opportunities for improvement.

Panelists and witnesses will include:

The Hon. Daniel Taubman – Colorado Court of Appeals
David Butler, Esq. – Colorado Access to Justice Commission
Manuel Ramos – Director of Advocacy, Colorado Legal Services
Chief Judge Gregory Lyman – 6th Judicial District
Sen. Jim Isgar and Rep. Ellen Roberts (invited)
John Whitney – United States Congressman John Salazar’s Regional Director
Ann Brown – United States Senator Kenneth Salazar’s Regional Director
David Liberman – Southwest Colorado Bar Association President
Lynne Sholler – Chair, 6th Judicial District Access to Justice Committee
Susie Bonds – Member, 6th Judicial District Access to Justice Committee
Kim Jones – Alternative Horizons
Eve Presler – Advocacy for La Plata

Other invitees include:

La Plata County Commissioners
Durango City Council
Local attorneys
Local judges and court personnel
Local agencies and non-profit organizations and their clients, including:
Department of Social Services, Southern Ute Indian Tribe, Southwest Colorado
Mental Health Clinic, Senior Center, Alternative Horizons, Sexual Assault
Services Organization, Durango Adult Education, Los Companeros, The
Family Center, Youth Services, Women’s Shelter/Safehouse, Women’s
Resource Center, Community Connections, PFLAG, Housing Solutions, The
Durango Herald, The Durango Telegraph . . . and more

Reception to follow the hearing – food and non-alcoholic beverages will be served

Please RSVP to: lmsholler@bresnan.net - seating is limited

Sixth Judicial District Access to Justice Committee Members

<u>Name</u>	<u>Affiliation</u>
Lynne Sholler	Committee Chair, Private Attorney
Gregory Lynman	Chief Judge, 6th Judicial District
Arthur Jacobs	Managing Attorney, Durango, Colorado Legal Services
Susie Bonds	Braided River Mediations
Kim Jones	Advocate, Alternative Horizons
Eve Presler	Advocacy for La Plata
Tracy Bedard	Minority Over-representation Project
Tony Garcia	Community Volunteer, Sacred Heart Church
David Liberman	President, Southwest Colorado Bar Association
Tom Blonde	Southwest Colorado Mental Health Clinics

Sixth Judicial District Access to Justice Committee Recent Accomplishments

- During its four years of existence, the local ATJ committee has functioned with approximately 12 members, consisting of various court personnel, attorneys, and a significant number of non-profit organizations with missions similar to ATJ.
- The committee produced a 25 minute, criminal law DVD entitled “Know Your Rights,” to assist defendants in better understanding the criminal court system and their rights and obligations. The DVD is accompanied by a six-panel brochure describing the film. The DVD is available in English and Spanish; the brochure is available in English and will soon be available in Spanish.
- The Committee engaged in fundraising and grant-writing activities to raise sufficient funds to produce the Know Your Rights DVD. In response, the Colorado Bar Foundation and many other organizations provided grants for the film.
- The committee has created a fill-in-the-blank contract, in English and Spanish, for use by construction subcontractors to establish legal rights in jobs they undertake. This project was undertaken because of non-payment of Spanish-speaking workers who were unable to prove contractual terms and establish their rights in small claims court. The contracts have been completed and will be distributed to other ATJ committees around the state.
- Last spring, a Landlord/Tenant rights legal clinic was offered to the public to provide information on the rights of both parties. There was a large turnout, and handouts were distributed. The Committee intends to repeat this clinic and to offer clinics on other topics.
- The committee has also collaboratively co-sponsored community events with other organizations. These included a “Community Dialogue” with the Department of Justice on race relations between law enforcement and minorities; cultural competency training; and diversity appreciation with the local school district.

